

No credit shall be given unless the claimant shows that it has borne the burden of the tax or has unconditionally repaid the amount of the tax to the customer from whom it was collected. See 86 Ill. Adm. Code 130.1501. (This is a GIL).

January 25, 2000

Dear Xxxxx:

This letter is in response to your letter dated January 5, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am seeking guidance from your office regarding a sales tax issue. I am writing this letter on behalf of COMPANY, a manufacturing company. We purchase steel, a raw material to us from BUSINESS for resale. We have recently completed a reverse sales tax audit; the findings showed we were paying sales tax on the purchase of steel from this vendor. I wrote a letter to our vendor requesting a refund or credit on our account for the sales tax paid for the past three years (maximum time allowed by the statute of limitations). Our vendor has responded that they are not willing to comply with our request and we should collect the sales tax from the state of Illinois. My experiences are that the entity remitting the tax should be the one refunding the tax. I don't agree that we should be requesting the refund from the state, is this correct? Any help you can provide me to resolve this issue would be greatly appreciated.

If a taxpayer pays an amount of tax under the Retailers' Occupation Tax Act that is not due, either as a result of a mistake of fact or an error of law, the taxpayer may file a claim for credit with the Department. Only the persons remitting tax to the Department are authorized to file such claims. No credit shall be given the taxpayer unless the taxpayer shows that it has borne the burden of the tax or has unconditionally repaid the amount of the tax to the customer from whom it was collected. See the enclosed copy of 86 Ill. Adm. Code 130.1501. The claims for credit must be prepared and filed upon forms provided by the Department containing the information listed in Section 130.1501(b). Taxpayers should not make adjustments on their next return or amend the return for the period in which the overpayment occurred.

Under Illinois sales tax laws, retailers are not required to file claims for credit. Further, the Department has no authority to compel sellers to file a claim for credit. Whether or not sellers refund the taxes paid and file claims for credit with the Department is a private matter between sellers and purchasers.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.